

Rokoff, S

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ADREA, LLC,

Plaintiff,

- against -

BARNES & NOBLE, INC.,
BARNESANDNOBLE.COM LLC, and
NOOK MEDIA LLC,

Defendants.

13-CV-4137 (JSR)

STIPULATION



RECITALS:

1. Defendants Barnes & Noble, Inc., Barnesandnoble.Com LLC, and Nook Media LLC ("Barnes & Noble") has served a trial subpoena dated September 17, 2014 on a document custodian of nonparty Amazon.com, Inc. ("Amazon") (the "Subpoena").

2. The Subpoena seeks testimony from Amazon's document custodian to authenticate and establish as business records two Amazon documents: (1) Kindle sales summaries: "WW Kindle CSOI Summary, 2011 OP2"- Ex. 128 to the 1/27/11 30(b)(6) Deposition of Phil Hardin; and (2) Kindle sales summaries: "Kindle Financial Summary, 2008-2010" - Ex. 130 to Hardin Dep ("two Amazon documents").

3. Amazon and Plaintiff Adrea, LLC ("Adrea") seek to avoid both 1) an appearance at trial by Amazon's document custodian and 2) the submission of a document custodian declaration establishing the two Amazon documents as Amazon's business records.

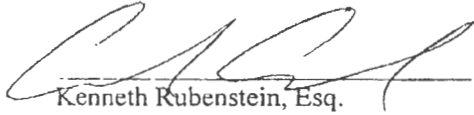
4. Barnes & Noble intends to introduce into evidence summary documents reflecting the data from the two Amazon documents ("summary documents").

IT IS HEREBY STIPULATED AND AGREED by and between the below-named parties and attorneys as follows:

1. Adrea agrees to Barnes & Noble's introduction of the summary documents reflecting the data included in the two Amazon documents.
2. Barnes & Noble agrees to provide Adrea with copies of the summary documents one day in advance.
3. Adrea stipulates and agrees to the authenticity of the two Amazon documents and the summary documents based thereon, and agrees to not raise an objection as to the accuracy of the information contained in the two Amazon documents and the summary documents to the extent they reflect data from the two Amazon documents.
4. The parties accept Amazon's representation that the two Amazon documents are business records of Amazon, created and maintained in the ordinary course of business activities of Amazon, and accordingly agrees not to raise an objection as to the admissibility of the two Amazon documents on hearsay grounds nor will it object to the admissibility of the summary documents on hearsay grounds with respect to the Amazon data from the two Amazon documents.
5. In view of the stipulations stated herein, Barnes & Noble will withdraw the September 17, 2014 document custodian subpoena served on Amazon, upon execution of this Stipulation. The parties agree that such withdrawal relieves Amazon of the obligation to provide a witness on the date specified by the subpoena.

October 6, 2014

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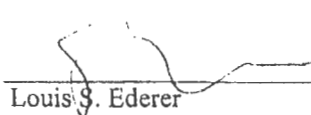
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October 6, 2014

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SO ORDERED



U.S.D.J.

10-8-14

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